

REMARKS OF
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Mr. Chairman and members of the Committee, I appreciate the opportunity to address the committee on a matter of grave importance to the states of this nation and the public we serve. This is the issue of pipeline safety. As Vice-Chairman of the National Association of Pipeline Safety Representatives (NAPSR), I can assure you the states who have been on the front lines of pipeline safety and damage prevention view the actions of this committee with great interest. With me today, is the Chairman of NAPSR, Terry Fronterhouse, Chief of Pipeline Safety from the Arizona Corporation Commission, who will be available for policy questions.

The issue of pipeline safety and the role of the states in this federal/state partnership was discussed at great length at our recent National Board of Directors meeting in Phoenix, Arizona, April 24-28. Thirty-four states were represented in this discussion and preparation of these remarks. For those of you who are not familiar with NAPSR, the organization was established in 1982 to represent state agency pipeline safety managers, engineers, and technical personnel who inspect gas and liquid companies. NAPSR's mission is to strengthen states' pipeline safety programs through promotion of improved pipeline safety standards, education, training, and technology.

As you are aware, the Pipeline Safety Act ("Act")(49 USC 60101 et seq.) authorizes the Secretary of Transportation (DOT) to administer a pipeline safety program for the gas and hazardous liquid pipelines in the United States. The Act allows the Secretary to delegate all or a part of the responsibilities for pipeline safety to interested states for a grant up to 50% of the cost of the states' programs. Unfortunately, despite the active involvement of the states, and high performance levels from federal audits showing the majority of states scoring 95-100%, this funding level has never been reached.

We are pleased to see in both S.2438 the "King and Tsiourvas Pipeline Safety Improvement Act of 2000" and the Department of Transportation's bill, S.2409 the "Pipeline Safety and Community Protection Act of 2000", that provisions are being made to provide greater funding for specialized or "contracted" state services. We remain concerned over the restrictive language in the bill regarding inspections of interstate operators by state agents such as Minnesota and until recently -Arizona and Nevada.

First, I would like to set the record straight about the role of the states in this inspection process, since certain information being circulated about us is incorrect. States have been actively assisting the Secretary in carrying out the pipeline safety program for the United States since the Pipeline Safety Act was signed into law in 1968. In fact, States' pipeline safety personnel represent 90 percent of the federal/state inspection workforce. These personnel are the "first line of defense" at the community level. They know their natural

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gas and hazardous liquid operators, emergency personnel, and have been strong promoters of pipeline safety and underground utility damage prevention.

State inspectors conduct inspections of more than 10,000 gas operators and 360 hazardous liquid operators nationwide. State pipeline safety programs ensure public safety through periodic office and field inspections of existing gas and liquid facilities, code compliance activities, and construction reviews of new facilities. These inspections ensure pipeline operators comply with safety regulations and company procedures pertaining to pipeline operations and maintenance. This directly results in the safe transportation of products to consumers.

In 1998, states were responsible for inspecting more than 938,000 miles of gas pipelines, 47.5 million gas service lines and

1,851 gas facilities such as liquid natural gas plants. States were responsible for inspection of approximately 45,000 miles of hazardous liquid pipelines. In 1998, the states conducted 25,785 inspection person-days of gas facilities and 1,948 inspection person-days of hazardous liquid pipelines. In comparison, US DOT's Office of Pipeline Safety's inspections consisted of 768 in 1998 and 621 in 1999 for the entire nation.

With respect to Damage Prevention, it is a well-known fact that damage to pipelines caused by excavation activity remains the leading cause of pipeline failures. It is imperative that all stakeholders take action to reduce these damages. The states have been and remain, on the forefront of initiatives that are designed to reduce damages to pipelines and other underground infrastructures. Recent national initiatives (DIG SAFELY and Common Ground) sponsored by the Federal Office of Pipeline Safety (OPS) were fully supported by the states. States have taken other actions on their own to reduce excavation caused damages to pipelines. In Minnesota, from 1998-2000, 231 outreach and educational talks were conducted by our engineers to 13,073 operators and excavators. We also added requirements for tracking abandoned utilities and made calling 9-1-1 immediately a requirement when there is a release of gas or hazardous liquid. In Virginia, since 1996, state efforts resulted in a 40% reduction of excavation damage to pipelines. Nationally, in 1998, 1,800 inspection person-days were spent on damage prevention activities. We support increasing state grant funding for legislation, education, and enforcement of State One-Call laws beyond the base pipeline safety programs.

Allow me to discuss our specific concerns with the bills. While many of the provisions in the bill are useful, recent actions by DOT to summarily limit the states' past role in inspecting interstate pipelines remains of concern. We believe the current language remains too restrictive and will neither improve pipeline safety nor "enhance the states' ability" to maintain their current levels of inspection. We believe existing interstate agent states will be adversely affected by the limitations placed on their inspection program. If these new conditions are written into law, they will overly restrict state inspections and will prevent other states from entering into the interstate inspection process.

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Finally, we believe that additional clarity is needed to assure that states already in the interstate program are assured due process before they may be removed by US DOT.

The language changes we are suggesting are as follows:

Sec. 9 in S.2438 and Sec. 6 in S.2409 DOT bill:

ENHANCED ABILITY OF STATES TO OVERSEE OPERATOR ACTIVITIES

(a)(3) should be amended to read, "An agreement under paragraph (2) shall also include a program allowing states to assume full inspection responsibilities to ensure compliance with pipeline safety standards, provided that the Secretary determines that--

(A), (B), and then strike (C), change (D) to (C).

To assure that states receive due process before their agreements are terminated, (b)(3) should be amended as follows: Section 60106(d) is amended by inserting after the first sentence the following: "In addition, the Secretary may end or decline to renew an agreement for the oversight of interstate pipeline transportation when the Secretary finds that there are significant gaps in the regulatory authority of the state authority over intrastate pipeline transportation...

This addition would address the state's right to a hearing should its program be dropped by any administrative procedure by DOT. Due process did not occur this past year when the interstate agency agreements for the states of Arizona and Nevada were dropped.

Mr. Chairman, the rights of states who have effectively conducted interstate inspections for years, as an "agreement state" is the basis for this language change. Interstate agent states were summarily put on notice that their programs would be cancelled or phased out over the next three years and replaced by more limited "contracted" services. The states affected include Arizona, Connecticut, California, Iowa, Michigan, Minnesota, Nevada, New York, Ohio, and West Virginia. Other states including Washington, Oklahoma, Texas, and Virginia had previously requested but were denied full interstate inspection status in the past.

The removal and limitation of state resources is analogous to disengaging a seasoned, fully trained force and their field commander from the battlefield and replacing them with a force from a foreign country that does not know the local customs, people, terrain, or rules of engagement. This proposed language would adversely tie the states' hands by re-designing the conditions that must be met in order to fight, and then replacing state "troops" with federal ones from Washington D.C., Atlanta, Houston, Kansas City, and Denver. History has proven, more than once, this isn't the way to win the battle.

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The states firmly believe their inspections are critical to ensuring that interstate pipelines are constructed, operated, and maintained safely. In several states including Minnesota, the state legislature mandated they seek this inspection role, which we have been successfully doing since 1991. In ending the current interstate agent program, OPS unfortunately presumes it could be replaced with a "temporary agent" program, which has not been fully analyzed, formalized or discussed with the states. This would only be for new construction and incident investigation. It also assumes that they will receive additional resources from Congress to replace state inspectors with federal ones. Unknown, unproven, uncertain alternatives must not be used to replace state activities that promote pipeline safety.

In closing, let me reaffirm the states' commitment to pipeline safety and environmental protection. We have the trained resources in place and have been doing the job. We are familiar with the local conditions, emergency responders, and operators. We have been and continue to be, on the front lines of our communities promoting public safety and damage prevention. We fully support your efforts to enhance this partnership without overly restricting those states that want to assume a greater role in pipeline safety.

Thank you for allowing me the opportunity to testify before your committee.

Attachment:

Resolution in support of Interstate Agents passed by National Association of Regulatory Utility Commissioners (NARUC) Washington, D.C. Annual Meeting March 8, 2000 and supported by NAPSIR and the National Governor's Association.

